THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 14377 of 2006

Dated: 30-11-2006

Between:

Sandeep Wood Crafts,
Rep., by P.Swarnalatha
Hyderabad.

..... PETITIONERS

AND

The Divisional Forest Officer,
Hyderabad.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 14377 of 2006

O R D E R:

This writ petition is filed aggrieved by the proceedings of the respondent-Divisional Forest Officer, Hyderabad dated 18-02-2006 whereunder, petitioner's application dated 23-11-2005 for shifting the existing saw mill was rejected on the ground that the proposed premises is situated within 5 kms. from the nearest Reserved Forest boundary and therefore not permissible under Sub-rule (2) of Rule 5 of the Andhra Pradesh Saw Mill (Regulation) Rules, 1969 (for short 'the Rules').

I have heard the learned Counsel for the petitioner and the learned Government Pleader for Forests appearing for the respondents.

Admittedly, the petitioner is seeking permission to shift the existing saw mill. Hence, as provided under sub-rule (4) of Rule 5 of the Rules the prior approval of the Licensing Authority is required. Such application made by the petitioner was rejected while referring to sub-rule (2) of Rule 5 of the Rules which runs as under :

> *"(2) the licence granted under these Rules for saw mills located within 5 kms of forest boundary shall not be transferable."*

On the face of it, sub-rule (2) of Rule 5 of the Rules quoted in the impugned order has no application since the same deals with transfer of licence from one person to another but not shifting of the premises of the saw mill.

Even the objection that the proposed premises is situated within

5 Kms from the nearest Reserved Forest Block is not attracted to the facts of the present case since admittedly the petitioner is not seeking permission for setting up fresh saw mill but only seeking to shift the existing saw mill to a different premises.

The Division Bench of this Court in ***Divisional Forest Officer, Adilabad District v. Sree Venkateswara Saw Mills***[1] having considered the scope of Rule 5 (4) which deals with shifting of saw mill vis-à-vis sub-rule (2) of Rule 3 of the Rules held that the bar contained in sub-rule (2) of Rule 3 of the Rules which prohibits grant of licence for saw mills within a distance of 5 kms from the boundary of any forest applies only for setting up fresh saw mills.

Hence, the contention of the respondents that the proposed shifting is not permissible under sub-rule (2) of Rule 3 of the Rules is without any substance.

Accordingly, the impugned order which is erroneous and illegal is hereby set aside and the Writ Petition is disposed of with a direction to the respondents to consider the application of the petitioner dated 23-11-2005 afresh in accordance with law and pass appropriate orders without reference to the prohibition under sub-rule (2) of Rule 5 and sub-rule (2) of Rule 3 of the Rules. No costs.

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G. ROHINI, J

Dated: 30-11-2006
KLP

[1] 2002 (4) ALD 55 (DB)